in evidence the plaintiff objected on the ground that the communication was privileged. *Held*, that the privilege is waived. *Clifford* v. *Denver & Rio Grande R. R. Co.*, 188 N. Y. 349.

The object of the statutes making communications to a physician privileged unless the privilege is waived by the patient, is "to save the patient from possible humiliation; not to enable him to win a lawsuit." See *Schlotterer* v. *Brooklyn, etc., Ferry Co.*, 89 N. Y. App. Div. 508. And the better opinion is that where the patient has voluntarily destroyed the privacy of the testimony, he has shown there is no need of the privilege; its object has then been defeated, and therefore he can no longer object. Accordingly waiving the privilege at one trial precludes setting it up at retrial. *Schlotterer* v. *Brooklyn, etc., Ferry Co., supra*. And the privilege is also lost by the patient presenting evidence of the communication which is ruled incompetent. *Kemp* v. *Metropolitan St. Ry. Co.*, 94 N. Y. App. Div. 322. Moreover, the similar privilege concerning transactions with an attorney is waived by making a sworn statement of the communication before a justice and publishing it in a newspaper. *In Re Burnette*, 73 Kan. 609. In the present case the communication was revealed, hence the obect of the privilege, the preservation of privacy, could not be attained, and the objection was properly overruled. 4 WIGMORE, EVIDENCE, § 2380, *et seq.*

BOOKS AND PERIODICALS.

I. LEADING LEGAL ARTICLES.

TERRITORIAL JURISDICTION IN WIDE BAYS. — The extent to which a littoral state may claim the right of territoriality over its bays was recently considered in two articles. *Territorial Jurisdiction in Wide Bays*, by A. H. Charteris, 16 Yale L. J. 471 (May, 1907); and *The Recent Controversy as to the British Jurisdiction over Foreign Fishermen more than Three Miles from Shore*, by Charles Noble Gregory, 1 Am. Pol. Sci. Rev. 410 (May, 1907). The occasion for this discussion was the holding in a recent Scottish case[1] that a statutory by-law prohibiting trawling in Moray Firth, a triangular sheet of water with an entrance eighty miles wide, applied to foreign fishermen. The decision is right, as the learned authors point out, for though the courts of a state may follow international law in so far as it is the common law of the land, yet the former law, like the latter, may be changed for those courts by a competent act of the legislature. But aside from the local decision there is the broader question whether other nations will recognize this act and whether by such recognition it will become a rule of international policy. Upon this question the articles assemble all the precedents.

In the time of James I, as they point out, by the doctrine of "king's chambers," England asserted jurisdiction over all waters within lines drawn around Britain from headland to headland. In fact, about that time most of the waters surrounding Europe were claimed as the territory of some power. Venice asserted her dominion over the Adriatic, Genoa over the Ligurian Sea, and Sweden and Denmark over the Baltic. Such claims, however, necessarily became more and more untenable, and early in the nineteenth century the freedom of the high seas became a principle of international law.[2] But this principle has not given us at this time any arbitrary rules as to the territorial rights of a state in its bays or as to what constitutes a bay. Mr. Charteris shows that there is only an increasing tendency to some uniformity. Thus he points out that in 1882 in the North Sea Convention, as between themselves, England,

[1] Mortensen *v.* Peters, 14 Scots. L. T. 227.
[2] Hall, Internat. Law, 5 ed., 140 *et seq.*

Germany, Belgium, Denmark, France, and Holland limited their jurisdiction for the police of fisheries in bays to three miles beyond a line drawn across the bay at the first point nearest the entrance where the width does not exceed ten miles. This rule has also been adopted in the domestic legislation of France, Germany, Belgium, and Holland. And again, that in 1885 in a fisheries convention, Spain and Portugal limited their exclusive fishing rights to bays twelve miles wide at the entrance — a rule also recommended by the Institute of International Law, except in the case of large bodies of water where there has been a continued and well-recognized claim of sovereignty. In applying a rule in specific cases to particular bays the uniformity may not be so clear. Delaware Bay, fifteen miles wide at its mouth, was recognized in 1793 as within the jurisdiction of the United States; in 1885 Chesapeake Bay, twelve miles wide and two hundred miles long, was held not to be part of the high seas; in 1877 Conception Bay, twenty miles wide and fifty miles long, was held to be within the territory of Newfoundland; and Bristol Channel, five to forty-five miles wide and eighty miles long was held in 1859 to be, in part at least, within the territory of Great Britain. On the other hand, the Bay of Fundy, an open arm of the sea, seventy-five miles wide and one hundred and forty miles long, was held a part of the high seas by an umpire in 1853. He said that the word "bay" as applied to this great body of water has the same meaning as that applied to the Bay of Biscay and the Bay of Bengal over which no nation can have the right to assume sovereignty. It must be noted, however, as Mr. Gregory says, that the extreme headland on one side of this bay was within the territory of the United States.

Clearly in the present case, holding a bay in the shape of an eighty-mile equilateral triangle not part of the high seas, we have to face either a change in principle or a greatly extended application of the old rule. To define a principle underlying the cases is not easy. The three-mile limit was based upon the power of a state to control the waters from the shore. The Institute recommends that this limit be extended to six miles. A bay twelve miles wide at the mouth would thus be clearly within the territorial jurisdiction of a state. Even if it were somewhat wider but very long it might still fall within Sir Robert Phillimore's general principle that jurisdiction over bays is limited to those of which the adjoining county has something like physical command. It would require the loosest application of such a rule to cover Moray Firth. Furthermore, such an application should certainly be discouraged because it would encroach on the general benefit to be derived from the freedom of the high seas — a benefit which England herself insisted on in the Behring Sea case. More particularly, as Mr. Gregory says, the adoption of the doctrine of "kings chambers" by other nations would mean that the fishing grounds of the world would pass substantially into local control. It is significant that the loudest protest against such an extension of jurisdiction is shown to have come from the English fishermen.

THE RIGHT OF A PARENT TO THE SERVICES OF HIS CHILD. — There is always a vital interest in law as it touches the individual in his personal relations, and this perhaps is especially true of the law of parent and child. The day of paternal despotism is long past, but many questions as to the law which governs this relation are still unsettled. In a recent article Mr. John A. Ferguson calls attention to a few of these. *Some Doubtful Points Incident to the Relation of Parent and Child*, 4 Comm. L. Rev. 57 (November-December, 1906).

The author first points out the tendency of the courts to regard the performance of the ordinary parental services as mere moral duties imposing no legal obligation on the parent, and cites as an example the rule that a father is not obliged to maintain his child. He then points out the relation of this rule to the right of the parent to the services and earnings of the child, and to the further possibility of recovery by the child of the value of its services. And it is intimated that, since the parent owes no duty to support,